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OFFICE OF PETITIONS

In re Application of	:	
Markus Pompejus et al	:	
Application No. 09/746,660	:	DECISION DISMISSING PETITIONS
Filed: December 22, 2000	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. BG1-121CP2	:	AND 37 CFR 1.55(c)

This is a decision on the petition, filed October 3, 2005, which is being treated as a petition under 37 CFR 1.78(a)(6) and 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§ 119(e) and 119(a)-(d) for the prior-filed provisional and foreign applications, respectively, as set forth in the amendment and Application Data Sheet filed concurrently with the instant application.

The petition is DISMISSED.

The present nonprovisional application was filed after November 29, 2000, and did not include a reference to the prior-filed provisional and foreign applications, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior-filed applications. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.78(a)(5)(ii) and 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.78(a)(6) and 37 CFR 1.55(c).

The petition to accept a late claim for priority to the provisional and foreign applications cannot be granted at this time in view of the attached Advisory Action wherein the Examiner indicates that the "priority information will not be entered because Applicant did not point out relevant supporting statements (nor did Applicant provide any translations of the relevant, claimed non-English priority documents) that directly relate or address the rejections of record."

Therefore, petitioner must now submit a request for continued examination (RCE) under the provisions of 37 CFR 1.114, or file an amendment that *prima facie* places the application in condition for allowance, or file a continuing

application pursuant to the provisions of 37 CFR 1.53(b). However, in view of the nonentry of the amendment, it appears that this application is now abandoned for failure to file a proper reply following the filing of the Notice of Appeal on March 1, 2005. As this application must be pending in order to accept a late claim for priority under 37 CFR 1.78(a)(6), petitioner may wish to consider filing a petition under 37 CFR 1.137 to revive the instant application. The petition to revive should also be accompanied by a renewed petition under 37 CFR 1.78(a)(6) and 37 CFR 1.55(c).


Further correspondence with respect to this matter should be addressed as follows:

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 401 Dulany Street
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Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Copy of Examiner's Advisory Action